

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RICHARD D. ALPHONSE,
Plaintiff

v.

JO ANNE B. BARNHART,
Commissioner of the Social
Security Administration,
Defendant

:
:
: **CIVIL ACTION**
: **NO. 04-6030**
:
:
:
:
:

ORDER

AND NOW, this 21st day of December, 2005, after careful and independent consideration of the parties' cross- motions for summary judgment [Doc. #8 and 9], and upon review of the Report and Recommendation of Magistrate Judge Carol Sandra Moore Wells, to which there were no objections filed, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The Commissioner's Motion for Summary Judgment is **DENIED**;
3. The Plaintiff's Motion for Summary Judgment is **DENIED** in part and **GRANTED** in part; and
4. The matter is **REMANDED** to the Commissioner to: 1) properly re-evaluate the evidence in light of the findings of the Report and Recommendation, giving Plaintiff's subjective complaints and the opinions of his treating providers the deference required by law and regulation; 2) reassess and fully explain whether Plaintiff's impairments meet or equal a listed impairment; 3) if necessary, re-evaluate Plaintiff's residual functional capacity, and submit a complete and accurate hypothetical question to a vocational expert; and 4) thoroughly explain

the new decision.

5. The Clerk of Court is directed to mark this case **CLOSED** for statistical purposes.

It is so **ORDERED**.

BY THE COURT:

/S/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.